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PART III. COURTS, JUDICIAL OFFICERS AND PROCEEDINGS IN CIVIL CASES

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CHAPTER 211E. MASSACHUSETTS SENTENCING COMMISSION

Chapter 211E: Section 1. Massachusetts sentencing commission; members; powers and duties

Section 1. (a) There is established, as an independent commission in the judicial branch of the commonwealth, a Massachusetts sentencing commission which shall consist of nine voting members and six non-voting members. The governor shall appoint the voting members of the commission, and shall designate one member as chairman. Three of the voting members shall be present district court, Boston municipal court or superior court department judges, selected from a list of seven judges recommended by the chief justice for administration and management, and at least one district court judge or Boston municipal court and one superior court judge shall be appointed. Two of the voting members shall be assistant district attorneys, selected from a list of seven assistant district attorneys recommended by the Massachusetts District Attorneys' Association. One of the voting members shall be an assistant attorney general, selected from a list of three assistant attorneys general recommended by the attorney general. Two of the voting members shall be members of the Massachusetts Association of Criminal Defense Attorneys, selected from a list of five such members recommended by the Massachusetts Association of Criminal Defense Attorneys. One voting member shall be a public defender, selected from a list of three public defenders recommended by the committee for public counsel services. The non-voting members shall be the commissioner of corrections, or his designee; the commissioner of probation, or his designee; and the secretary of public safety, or his designee; the chairman of the Massachusetts parole board, or his designee; the president of the Massachusetts Sheriffs Association or his designee; a victim witness advocate selected by the victim witness board.

The chairman and the members of the commission shall be subject to removal from the commission by the governor only for neglect of duty or malfeasance in office or for a showing of other good cause.

(b) (1) The voting members of the commission shall be appointed for six-year terms; provided, however, that the initial terms of the first members of the commission shall be staggered so that four members, including the chairman, serve terms of six years; three members serve terms of four years; and two members serve terms of two years. Terms of those members appointed because of their public office or position shall end when the member leaves such public office or position, and a successor shall be appointed in the prescribed manner.

(2) No voting member may serve more than two full terms. A voting member appointed to fill a vacancy that occurs before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(3) Members of the commission shall serve without compensation, but each member shall be reimbursed by the commonwealth for all reasonable expenses incurred in the performance of official duties.

- (4) Judges who serve on the commission and shall not be required to resign their judicial appointments.
- (c) The commission shall have the power to perform such functions as may be necessary to carry out the purposes of this chapter, and may delegate to any member or designated person such powers as may be appropriate to the accomplishment of the duties of the commission as set forth below. In particular, the commission shall:
- (1) appoint and fix the salary and duties of a director and other personnel, who shall serve at the discretion of the commission;
 - (2) submit appropriations requests to the secretary of administration and finance;
 - (3) utilize, with their consent, the services, equipment, personnel, information, and facilities of federal, state, local, and private agencies and instrumentalities with or without reimbursement therefor;
 - (4) enter into and perform such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the commission, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization;
 - (5) accept and employ, in carrying out the provisions of this chapter, voluntary and uncompensated services;
 - (6) request such information, data, and reports from any Massachusetts agency or judicial officer as the commission may from time to time require and as may be produced consistent with other law;
 - (7) serve as a clearinghouse for the collection, preparation, and dissemination of information on sentencing practices and assist courts, departments, and agencies in the development, maintenance, and coordination of sound sentencing practices;
 - (8) make recommendations to the legislature concerning modification or enactment of laws relating to crimes, sentencing, and correctional matters, as well as recommendations concerning programmatic, budgetary and capital matters that the commission finds to be necessary and advisable to carry out the purposes of this chapter;
 - (9) hold hearings and call witnesses to assist the commission in the exercise of its powers or duties.
- (d) Except as hereinafter provided, the commission shall act by affirmative vote of at least five of its voting members.
- (e) Upon the request of the commission, each agency and department of the commonwealth is hereby authorized and directed to make its services, equipment, personnel, facilities and information available to the greatest practicable extent to the commission in the execution of its functions. The commission shall, to the extent practicable, utilize existing resources of the administrative office of the trial court for the purpose of avoiding unnecessary duplication.
- (f) Except as otherwise provided by law, the commission shall maintain and make available for public inspection a record of the final vote of each member on any action taken by it.
- (g) The director shall supervise the activities of persons employed by the commission and perform other duties assigned to the director by the commission. The director shall, subject to the approval of the

commission, appoint such officers and employees as are necessary in the execution of the functions of the commission.